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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/235,319	01/22/1999	RICHARD M. UBOWSKI	IYENGAR8-10	4856

7590

09/02/2003

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EXAMINER

TRAN, CON P

ART UNIT

PAPER NUMBER

2644

DATE MAILED: 09/02/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

CA

Advisory Action

Application No.

09/235,319

Applicant(s)

UBOWSKI ET AL.

Examiner

Con P. Tran

Art Unit

2644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-28.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Continuation of 2. NOTE:

In response to the Final Office Action of paper Number 7, Applicants raise the following issues:

(1) Park's acoustic echo canceller module that is configurable for use within a single device is NOT an echo canceller that is configurable for use within two devices, much less an echo canceller module that is configurable as an acoustic echo canceller for operating in a first wireless device and as a hybrid echo canceller for operating in a second wireless device.

(2) Applicants' Admitted Prior Art ("AAPA") fails to disclose or suggest a configurable echo canceller module for use in two devices, much less an echo canceller module that is configurable as an acoustic echo canceller for operating in a first wireless device and as a hybrid echo canceller for operating in a second wireless device.

(3) Neither Park, AAPA, Iyengar, Velardo nor Sih, either alone or in combination, disclose, teach or suggest an echo canceller module that is configurable as an acoustic echo canceller for operating in a first wireless device and as a hybrid echo canceller for operating in a second wireless device.

(4) "Having an echo canceller that is configurable for use in a first and second wireless device allows, e.g., minimizing production costs. . . the single unit being configurable for its intended application. . . . Park and AAPA, either alone or in combination, fail to disclose or suggest such a benefit."

Examiner respectfully disagrees for the following reasons:

Art Unit: 2644

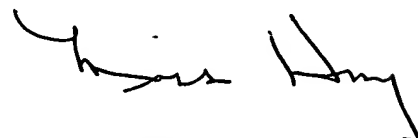
As to items (1-3), in Figure 3, Park shows a single echo canceller which is reconfigurable to serve as a hybrid or an acoustic echo canceller (col. 3, lines 50-61). It is the teaching of "reconfigurable" that would be obvious to one of ordinary skill in the echo cancellation arts to incorporate the Park teaching with AAPA, in which a designer picks and chooses, for example, an AEC for handset (i.e., first wireless device) and a HEC for base unit (i.e., a second wireless device; Admission, Fig. 6, page 3, line 29 – page 4, line 6).

In response to applicants' argument of item (4), a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

In this case, Park in view of AAPA teaches a single echo canceller which is reconfigurable to serve as a hybrid or an acoustic echo canceller (see Park, col. 3, lines 50-61) for handset or base unit, respectively. Park further discloses to implement echo time determiner (302, Fig. 4) and echo cancellation circuit (301, Fig. 3) in a digital signal processor (see Park, col. 4, lines 64-66), to save processing time and energy (see Park, col. 3, lines 48-49).

As such the claims remain rejected.

CPJ



MINSUN OH HARVEY
PRIMARY EXAMINER